

Cal/EPA Advisory Committee on Environmental Justice

November 20, 2002
Cal/EPA Building, 1001 I Street, Sacramento, CA

MEETING NOTES

OPENING REMARKS

Winston Hickox, Secretary of Cal/EPA, opened the third Advisory Committee on Environmental Justice by thanking the committee members and co-chairs for their hard work in addressing the issue of environmental justice. He noted that the work being done on environmental justice is just the beginning and tough issues lie ahead. In order to address such issues, Secretary Hickox acknowledged the need for the involvement of those with direct experience in addressing the issue. Thus, the role of the Advisory Committee is an important one since it will shape the direction and agenda of Environmental Justice for Cal/EPA.

Secretary Hickox stated that the road to environmental justice must involve various stakeholders to lead the way. He welcomed the new committee members and thanked them for their willingness to serve on the committee (the addition of the new members is a result of legislation, SB 1542, signed in September 2002 to include four new members: one federally recognized tribe; two environmental justice organizations; and one small business). The Committee will carry the responsibility of preparing a set of recommendations and advice that Cal/EPA and the Working Group should consider in an EJ Strategy. Secretary Hickox encouraged all members of the committee to draw on their collective experiences and knowledge to assist Cal/EPA in addressing environmental justice.

Furthermore, Secretary Hickox reiterated his commitment to environmental justice by referring to the agency-wide memo he issued in March 2002. He mentioned the fiscal reality that California faces and ensured that environmental justice will remain a priority within Cal/EPA. He concluded his opening remarks by stating the goal is to ensure- *that all Californians, regardless of race, culture, or income, enjoy the same degree of protection from environmental and health hazards and equal access to the decision-making processes*. Secretary Hickox extended his appreciation to all the committee members for their efforts.

INTRODUCTION

Committee Co-chair Ms. Detrich Allen called the meeting to order and thanked Secretary Hickox for his support. Ms. Allen welcomed the Committee members and extended her appreciation for the hard work and commitment of the Committee members to issues of environmental justice. Ms. Allen encouraged the members of the Committee to introduce themselves, and asked the new Committee members to begin the introductions:

a) **Dorothy M. Hallock, Fort Mojave Indian Tribe, Needles, CA** (representative of a federally recognized tribe)- Ms. Hallock is director of planning for the Fort Mojave Tribe and she has 20 years experience in Native American advocacy.

b) **Donna Pittman, Pittman & Associates, San Francisco, CA** (representative of small business)- Ms. Pittman is Principal of a consulting firm in San Francisco; focusing on transportation issues with 20 years experience.

c) **Henry Clark, West County Toxics Coalition, Richmond, CA** (representative of Environmental Justice Organization)- Dr. Clark is the Executive Director of West County Toxics Coalition. He has been involved in the EJ process for the last 20 years and lives in the north Richmond community. (Alternate: **LaDonna Williams**).

d) **LeVonne Stone, Fort Ord Environmental Justice Network, Monterey, CA** (representative of Environmental Justice Organization)- Ms. Stone is the executive director of the Fort Ord EJ Network, whose constituencies represent communities in Monterey County, particularly those communities impacted by the former Fort Ord army base- the largest closing military bases in California.

Ms. Allen welcomed all the new members and asked that the other Committee members to introduce themselves.

Committee Members Present:

1. (Co-Chair) Detrich Allen – City of Los Angeles Department of Environmental Affairs (Planning Agency)
2. Barbara Lee, Northern Sonoma County Air Pollution Control District (Air District)
3. Barry Wallerstein - South Coast Air Quality Management District (Air District)
4. Michael Dorsey – County of San Diego Department of Environmental Health (CUPA)
5. Henry Clark – West County Toxics Coalition (Environmental Justice Organization)
6. Joe Lyou - California League of Conservation Voters Education Fund (Environmental Organization)
7. LeVonne Stone – Fort Ord Environmental Justice Network (Environmental Justice Organization)
8. José Bravo (Alternate for Committee member Carlos Porras) Communities for a Better Environment (Environmental Organization)
9. Dorothy Hallock – Fort Mojave Indian Tribe (Federally Recognized Indian Tribe)
10. Cindy Tuck - California Council for Environmental & Economic Balance (CCEEB) (Large Business)
11. Holly Welles (Alternate for Committee member Robert Harris) – Pacific Gas & Company (PG & E) (Large Business)
12. James Kennedy – Contra Costa County Redevelopment Agency (Planning Agency)
13. Cynthia McClain-Hill – McClain-Hill & Associates (Small Business)
14. Donna Pittman – Pittman & Associates (Small Business)

Committee Attendees by Conference Call:

1. Bill Jones - County of Los Angeles Fire Department / Health Hazardous Materials Division (Small Business)
2. (Co-chair) Diane Takvorian – Environmental Health Coalition (Community Organization)
3. Eva Vasquez-Camacho – United Farm Workers of America (Community Organization)

Ms. Allen also expressed apologies from Co-Chair Diane Takvorian for not being able to attend the meeting in person (Ms. Takvorian joined the meeting via conference call). Committee members, Eva Vasquez-Camacho and Bill Jones, could not be present in person, but were able to participate via conference call.

Cal/EPA STAFF PRESENTATION

Cal/EPA Assistant Secretary for Environmental Justice, Romel Pascual provided a presentation to the Committee - "Report on the Public Workshops & Draft Environmental Justice Strategy Framework." Mr. Pascual provided a historical context to the development of the draft EJ Strategy Framework document by highlighting discussions that occurred during the first two EJ Advisory Committee meetings held in May 2002 EJ Advisory in Los Angeles, and in June 2002 in Oakland. The recommendation offered at the Los Angeles meeting in May 2002 was for Cal/EPA staff and the Advisory Committee Protocol Group (Committee Co-Chairs and the Assistant Secretary for Environmental Justice) to draft a document (Environmental Justice Strategic Elements) that would capture and organize the information received in the May 2002 meeting. The document would then be discussed at the June 17, 2002 meeting in Oakland.

The first draft of the EJ Strategic Elements was presented for Committee discussion at the Oakland meeting in June 2002. In that meeting, the Advisory Committee agreed that the Protocol Group should re-draft, refine and clarify the draft of the EJ Strategic Elements. The re-draft resulted in a Preliminary Draft EJ Strategy Framework released in September of 2002.

Mr. Pascual commented on the public workshops held throughout the state in September of 2002. The purpose of the public workshops was to gain further input into the Preliminary Draft EJ Strategy Framework. The discussions in these workshops would help incorporate and identify community level issues and priorities and help identify issues affecting their respective communities and regions. Approximately 200 people participated in these workshops held in Oakland, Fort Ord-Monterey, Fresno, Los Angeles and San Diego. Participants of the workshops represented a variety of stakeholders, including, community residents, community organizations, environmental organizations, environmental justice groups, non-profit groups, local agencies, state and federal agencies, business, and industry.

The following are highlights of key points heard at the public workshops:

- The need for integrating environmental justice into Cal/EPA's programs, policies and activities;
- The need to clarify how to implement what already exists in statutes and regulations which outline environmental justice;
- The implementation of environmental justice is lacking in many areas (i.e. permit processes, enforcement activities etc.);
- Problematic issues need to be addressed such as permitting (programmatic approach vs. permit-by-permit) and the precautionary principle;
- The need to involve the public in the decision-making process;

- Reliable research and data collection are required for informed environmental decisions; and;
- Coordination and accountability with other entities, outside of the traditional environmental regulators.

The general comments made in the workshops raised the following questions:

- How far-reaching is the Cal/EPA EJ Strategy?
- Will the strategy affect local agencies and other government entities?

As a result of the comments received at the public workshops, the Environmental Justice Strategy Framework draft was revised to capture the written comments and the key points made in the workshops. The following format points were used to demonstrate clarity and cohesion:

1. Criteria Development

- Identification on how to frame criteria on gaps and issue areas

2. Recommended EJ Strategy Elements

- Perceived and/or reported gaps & issues from public input
- Recommendations of Activities to Promote Environmental Justice

Mr. Pascual concluded his presentation by emphasizing that the EJ Draft Strategy is a draft (working) document/recommendation from the Advisory Committee to the Interagency Working Group.

PUBLIC COMMENT PERIOD #1

Committee Co-Chair Ms. Allen announced and invited the public to make their comments regarding the revised draft of the EJ Strategy Framework document. The following are public comments made during the meeting:

- **Sandra Salazar-Thompson** (EJ Program Director, Governor's Office of Planning & Research)
Sandra Salazar-Thompson encouraged the committee to think broader than Cal/EPA and to provide advice in terms of how other agencies in state government play a role in addressing environmental justice. She mentioned that the OPR is working on implementing environmental justice for all state government. Ms. Salazar-Thompson continued by stating that the work done at Cal/EPA impacts several agencies outside of Cal/EPA. For example, the power plant issue she is addressing not only involves environmental agencies, but also a number of agencies like the California Energy Commission and the Department of Housing. Ms. Salazar concluded her remarks by stating that several agencies are involved when dealing with environmental justice issues.

- **Bill McGavern** (Sierra Club)

Mr. McGavern expressed his support and is pleased with the expansion of committee membership. He feels that the committee is headed on the right direction, especially with public participation and technical assistance. The test, according to Mr. McGavern, is whether environmental justice will be incorporated in the decision-making process.

LESSONS LEARNED FROM THE PUBLIC WORKSHOPS

After the closure of the first public comment period, the Advisory Committee members discussed the Public Workshop on the draft EJ Strategy Framework document. The members opened a discussion on the effectiveness of the workshops, and discussed some of the lessons learned from the public workshops in terms of achieving meaningful public participation. The following *observations* were identified:

- The attendees of the workshop included strong participation from concerned community residents and local government;
- Translation should be provided at all future workshops (translation was only provided for the San Diego workshop due to limited resources);
- The time and location of the Fort Ord and Los Angeles workshops were not conducive for good community participation;
- More outreach to Cali-Mexico Border communities and Native Indian tribal groups could have been done to increase the participation at the public workshops. Additional outreach to other populations, including the Southeast Asian population in the Bay Area who have been involved with addressing EJ issues in the Bay Area

REVISED ENVIRONMENTAL JUSTICE STRATEGY FRAMEWORK DISCUSSION

Following the comment period, the Committee discussed the revised EJ Framework document (revised EJ draft strategy document). Some Committee members expressed concern on the clarity of the revised draft document and whether the format was conducive for the Cal/EPA and the Interagency Working Group on Environmental Justice (Working Group). Secretary Hickox affirmed that the format was adequate and conducive for discussion, but expressed that the Committee should determine what format would work best for the Committee to communicate the recommendations. A committee member made the following suggestions/comments to the format:

- 1) The terms “**Elements**” should be replaced to read “**Policy Statements**”
- 2) Each element should have two sections;
- 3) Public and written comments received should be part of an appendix; and
- 4) Include a timetable for the public and the workshop participants in the final strategy format.

A concern was raised about involving the State Health Department and other local health departments in the implementation process of the strategy. Committee member Ms. Stone made a comment that agencies outside of Cal/EPA, including the Health Department, need to be involved and referred to this as a gap that needs to be addressed. A question was asked on whether the Health Department is currently engaged in implementing environmental justice. Mr. Pascual responded by saying that the Health Department is engaged in implementing EJ with participation in the Governors Office of Planning and Research (OPR) environmental justice coordinating efforts.

The Office of Planning and Research (OPR) has the responsibility of coordinating all state agencies (per state legislation SB 115). Tal Finney, Interim Director of OPR, explained that Cal/EPA is leading the way on implementing environmental justice with a cutting edge approach. Environmental justice is an ongoing process and the current project is to implement EJ into the State's General Plan Guidelines. The EJ framework is what needs to be developed; OPR will then spread out the decisions made by the Committee.

Secretary Hickox stated that he supports the comments made of having EJ be incorporated in agencies outside of Cal/EPA; however, he suggested that the committee should try to stay within the obligations and authority of Cal/EPA and within what is intended in Legislation. Secretary Hickox further stated that the Committee's decisions and advice will help the process of engaging the outside agencies in the implementation of environmental justice.

During the discussion of identifying gaps within Cal/EPA's Boards, Departments and Offices (BDOs), the following suggestions were made:

- The Committee needs to recommend criteria for how to address gaps in environmental justice;
- The Committee should consider a category for interagency issues (. e.g., land use, epidemiological\investigation, health, etc.)
- There is a need to articulate the gaps in existing rules and regulations (Superfund sites have been heavily under-regulated) where EJ can be addressed.

A statement was made about the revised draft EJ strategy document's lack of coherence. Committee member Dorothy Hallock expressed her concern with a narrow versus broad definition of environmental justice. Ms. Hallock expressed that the community holds its own interpretation of environmental justice (e.g. quality of life). Ms. Hallock made the distinction that a definition made from someone in the community is not the same definition made by someone involved in the technical process.

The topic of engaging the community was key during the Committee discussions. Henry Clark emphasized that the gaps the community perceives are valid and should be taken into account. He suggested that the Committee facilitate community's concerns and issues and then forward them to the appropriate agencies. He also commended the OPR for including an environmental justice component in the General Plan Guidelines. According to Dr. Clark, more outreach should be done with local and state agencies to raise their awareness that environmental justice guidelines are being developed. Dr. Clark expressed concern that city planners are ignoring the implementation of environmental justice in their work because of lack of awareness. Dr. Clark made a recommendation to the Committee to develop criteria for addressing the gaps that the communities have already identified.

Upon the conclusion of the discussion, Ms. Allen posed the following questions to the committee:

- How do we (The Committee) handle the addressing the 'gaps'?
- How are we going to deal with the agencies outside of Cal/EPA?
- How do we focus with the specific things Cal/EPA is charged with?
- How do we incorporate CCEEB's comments in terms of criteria?
- The Committee might want to think about forming a subcommittee to help Cal/EPA staff in the redraft of the recommendation.

Ms. Allen suggested that the Committee continue to hear any new Public Comment Period after the Lunch Break

END of review. – LUNCH BREAK

PUBLIC COMMENT PERIOD #1 - CONTINUED

The second public comment period took place and the following comments were made:

- **Bonnie Holmes-Gen** (American Lung Association)

Ms. Holmes-Gen spent time working on the ARB Environmental Justice document and notes that there is a clear statement of the problem; that some communities experience higher risk than others. She expressed her concern to the committee about attempting to move away from clearly stating and acknowledging the problem. Ms. Holmes-Gen provided national facts about asthma as evidence to the problem. She affirmed that Black children are three times as likely to develop asthma and four times as likely not to receive treatment when compared to their white counterparts. Ms. Holmes-Gen believes that the asthma problem that exists today is a result of the gaps found in the Cal/EPA programs. Her suggestion to the committee is that these gaps must be detected and defined. Ms. Holmes-Gen made a recommendation that the focus should be on prevention programs. She stated that there is a need for a pollution prevention program especially in low-income and communities of color.

- **LaDonna Williams** (People for Children's Health)

Ms. Williams is the alternate for Henry Clark and also represents the community on environmental justice issues. Her comments focused on engaging the community in the decision making process. Her concern is that agencies make their final decisions before involving the community. She stated that agencies from DTSC to Cal/EPA have been ignoring community issues and that has resulted in lack of community participation. She suggested that issues affecting communities should be viewed as *real* issues and not *perceived* issues. She acknowledged that Cal/EPA is not involved in certain legal processes but understands that Cal/EPA is referred to as guidance for data in the courtroom. She mentioned that when communities go to court, the court refers to reports that have not yet been done by Cal/EPA. Ms. Williams strongly recommends Cal/EPA to engage the community in their decision making process.

COMMITTEE DISCUSSION ON THE FORMAT OF THE REVISED EJ STRATEGY FRAMEWORK DOCUMENT

After the closure of the second public comment period, the Committee shifted their discussion to the document. The Committee deliberated about the format of the revised EJ Strategy Framework document. Much of the discussion focused on the proposal made by committee member Barbara Lee to format the document in the following order:

1. Direct staff to restructure the document to begin with a clear statement of the disparate impacts and difficulties faced by communities
2. Clear statement of the legislative charge to the committee
3. Outline of how document will address items 1 & 2
4. Summary the of public participation and comments received

5. The framework with elements and action items
6. Discussion of further practical implementation steps needed to bring the recommended framework into fruition (implementation)
7. Set of recommendations for “outside the box” statutory changes and agencies outside Cal/EPA umbrellas
8. Materials/Resources needed to clarify the document-Appendix

Committee members expressed their concern on the elements proposed, in particular element number one. The following are key points made during the deliberation process:

- Where do we (the Committee) see criteria development coming in?
- There are different ways to frame element number 1; leave “disparate impact” uniting element number 5
- Why are we leaving out “disparate impact”?
- The suggestion to leave disparate impact out was to open a discussion
- “Disparate impact” should not be taken out for the purposes of keeping the language simple
- The state’s definition for environmental justice is broad; we want to make sure that communities are emphasized more than others
- The Committee may not word the term exactly but it is important to give credence to history and the process of environmental justice.
- The EJ definition can be misleading and not comprehensive enough, the disparate impact statement must be included.

After deliberating the proposed changes to the elements, the committee restructured the elements and reached consensus on the following format for the revised EJ Strategy Framework document and renamed the document:

1. *Begin with a clear statement of the environmental justice problem (the drafting of the statement will include Committee discussion of historical context, disparate impacts, public participation, etc.)*
2. *Clear statement of the legislative charge to Cal/EPA, Interagency Working Group, and the Advisory Committee*
3. *Outline of how document will address items 1 & 2*
4. *Summary the of public participation and comments received*
5. *The framework with elements and action items that address items 1 & 2*
6. *Discussion of further practical implementation steps needed to bring the recommended framework into fruition*
7. *Set of recommendations (inside or outside the purview of Cal/EPA) such as statutory changes and recommendations for agencies outside Cal/EPA umbrella*

Materials/Resources needed to clarify the document - Appendix

8. *Begin with a clear statement of the environmental justice problem (the drafting of the statement will include Committee discussion of historical context, disparate impacts, public participation, etc.)*
9. *Clear statement of the legislative charge to Cal/EPA, Interagency Working Group, and the Advisory Committee*
10. *Outline of how document will address items 1 & 2*
11. *Summary the of public participation and comments received*
12. *The framework with elements and action items that address items 1 & 2*
13. *Discussion of further practical implementation steps needed to bring the recommended framework into fruition*
14. *Set of recommendations (inside or outside the purview of Cal/EPA) such as statutory changes and recommendations for agencies outside Cal/EPA umbrella*

Materials/Resources needed to clarify the document – Appendix

15. *Begin with a clear statement of the environmental justice problem (the drafting of the statement will include Committee discussion of historical context, disparate impacts, public participation, etc.)*
16. *Clear statement of the legislative charge to Cal/EPA, Interagency Working Group, and the Advisory Committee*
17. *Outline of how document will address items 1 & 2*
18. *Summary the of public participation and comments received*
19. *The framework with elements and action items that address items 1 & 2*
20. *Discussion of further practical implementation steps needed to bring the recommended framework into fruition*
21. *Set of recommendations (inside or outside the purview of Cal/EPA) such as statutory changes and recommendations for agencies outside Cal/EPA umbrella*
22. *Materials/Resources needed to clarify the document - Appendix*

Document Title Change to:

The Recommendations of the Cal/EPA EJ Advisory Committee to the Cal/EPA Interagency Working Group on Environmental Justice

The committee also agreed on creating a **sub-committee** that would craft a revised version of the document, based on the discussions and agreement reached at the meeting. The sub-committee would then report back to the full Committee on the decisions they make. The following members compose the sub-committee:

1. James Kennedy
2. Joe Lyou
3. LeVonne Stone
4. Barbara Lee (Subcommittee Co-chair)
5. Cindy Tuck
6. Holly Welles
7. Henry Clark (Subcommittee Co-chair)
8. Donna Pittman

PUBLIC COMMENT PERIOD #2

Ms. Allen opened the final public comment period. The following are the comments made:

- **Ansje Miller** (Redefining Progress)

Ms. Miller urged the committee to support the precautionary principle. She explained that every precautionary principle lists a *pro* and a *con*, which are not mutually exclusive to each other and addresses the externalities. She believes that science is sometimes inconclusive and as a result, communities end up bearing the cost of spending time and resources to fight polluters. Ms. Miller suggested the need to focus on the collaboration process to exchange information.

- **Ken McGhee** (Environmental Justice Coordinator for Cal/FED)

Ken McGhee talked about the danger of all EJ coordinators not duplicating their efforts in implementing environmental justice. He extended an invitation to all members present to attend the Cal/FED EJ meetings.

ADJOURNING THE MEETING

After the conclusion of the final public comment period, Mr. Pascual suggested that the committee take a look at the timeframe for the development of the document (for timeline please see **Revised draft EJ Strategy Elements version 11-04-02**). The committee agreed to meet on the following dates:

1. **January 10th** – Full Advisory Committee meeting
(TBA southern CA San Diego/Los Angeles)
2. **January 21st** – Joint meeting: Interagency Working Group & Committee (Sacramento)
3. **February 18th** – Full Advisory Committee (Central coast California)
4. **March 19th** – Joint meeting: IWG & Committee (Central Valley California)

Meeting adjourned.